

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

UNITED STATES ex rel. ROBERT KRAUS and
PAUL BISHOP,

Plaintiffs,

- against -

WELLS FARGO & COMPANY, WELLS
FARGO BANK, N.A., and its and their
subsidiaries and affiliates,

Defendants.

Civil Action No. 11-cv-05457-EK

JOINT STATUS REPORT

Relators Robert Kraus and Paul Bishop (“Relators”) and Defendants Wells Fargo & Co. and Wells Fargo Bank, N.A. (“Wells Fargo”) respectfully submit this Joint Status Report.

I. PROCEDURAL BACKGROUND

This action has been remanded for proceedings consistent with the Memorandum Opinion and Judgment issued and entered on November 21, 2019, by the United States Court of Appeals for the Second Circuit, in *United States ex rel. Kraus, et al. v. Wells Fargo & Co., et al.*, No. 18-1746 (2d Cir.). The Second Circuit issued its mandate on January 16, 2020. Dkt. No. 96. On the same date, Judge Cogan entered a Docket Order, without a docket no., requiring a Joint Status Report addressing next steps in this litigation. Separately, Wells Fargo received an extension through March 20, 2020, from the Supreme Court of the United States for the time within which to file a petition for certiorari. *See* No. 19A840.

The parties filed a Joint Status Report on January 30, 2020. Dkt. No. 97. That report indicated that the parties would hold private mediation on or before March 20, 2020, and proposed a briefing schedule for any motion to dismiss in the event mediation fails. *Id.* The Court entered an Order requiring the parties to attempt to resolve the litigation by mediation or

other negotiation by March 20, 2020, and established deadlines for any motion to dismiss and opposition briefing in the event such attempt fails. Dkt. No. 98.

On March 10, 2020, Wells Fargo sought an extension of time in which to file a petition for certiorari until April 3, 2020. The Supreme Court of the United States granted Wells Fargo's request on March 13, 2020. *See* No. 19A840. Subsequently, on March 19, 2020, the Supreme Court of the United States entered an Order "[i]n light of the ongoing public health concerns relating to COVID-19" extending the deadline to file any petition for certiorari due on or after March 19, 2020, by 150 days from the date of the lower court judgment. *See* Miscellaneous Order, 589 U.S. (Mar. 19, 2020), *available at* https://www.supremecourt.gov/orders/courtorders/031920zr_d1o3.pdf. Because 150 days from the date on which the Second Circuit Court of Appeals issued its Memorandum Opinion and Judgment (November 21, 2019) falls on a Sunday (April 19, 2020), Wells Fargo's deadline for filing any petition for certiorari in this litigation is now April 20, 2020.

II. STATUS OF PROCEEDINGS

The parties held a private mediation on March 12, 2020. Although the mediation did not result in an agreement between the parties, the parties and the mediator have continued to confer and negotiate by teleconference. Such conferral remains ongoing. To accommodate continued negotiations, and to preserve judicial resources, the parties propose the following:

1. The parties shall continue to attempt to resolve this litigation by mediation or other negotiation by April 20, 2020.
2. If such negotiations fail to resolve this litigation, Wells Fargo shall move to dismiss the complaint on or before May 11, 2020. Relators shall file any opposition to such

motion on or before June 1, 2020. Wells Fargo shall file any reply in further support of its motion to dismiss on or before June 12, 2020.

3. In the event that Wells Fargo files a petition for certiorari, it reserves its rights with respect to filing a motion requesting a stay pending a decision on the petition by the Supreme Court.
4. The parties shall promptly notify the Court if mediation or other negotiations to resolve this litigation are successful.

III. CONCLUSION

The parties are available at Your Honor's convenience to discuss this matter further.

Dated: March 27, 2020

Respectfully submitted,

GRANT & EISENHOFER P.A.

By: /s/ Jay W. Eisenhofer
Jay W. Eisenhofer
jeisenhofer@gelaw.com
485 Lexington Avenue
New York, New York 10017
Telephone: (646) 722-8500

GRANT & EISENHOFER P.A.

Kyle J. McGee
kmcgee@gelaw.com
Viola Vetter
vvetter@gelaw.com
123 Justison Street
Wilmington, Delaware 19801
Telephone: (302) 622-7000

GOLDSTEIN & RUSSELL, P.C.

Tejinder Singh
tsingh@goldsteinrussell.com
7475 Wisconsin Avenue, Suite 850
Bethesda, Maryland 20814
Telephone: (202) 362-0636

TROUTMAN SANDERS LLP

By: /s/ Amy Pritchard Williams
Amy Pritchard Williams
amy.williams@troutman.com
Mackenzie Willow-Johnson
mackenzie.willow-johnson@troutman.com
301 S. College Street, Suite 3400
Charlotte, NC 28202
Telephone: (704) 998-4102

Stephen G. Rinehart
stephen.rinehart@troutman.com
875 Third Avenue
New York, NY 10022
Telephone: (212) 704-6305

*Attorneys for Defendants Wells Fargo &
Company and Wells Fargo Bank, N.A.*

**THE LAW OFFICES OF
SHARAD A. SAMY LLC**

Sharad A. Samy
sharad@sharadsamy.com
32 Old Oak Road
Darien, Connecticut 06820
Telephone: (917) 673-0804

Attorneys for Relators